

## **LEGAL NOTICE OF CLASS CERTIFICATION**

**TO: ALL PERSONS WHO WERE INCARCERATED IN THE ALLEN COUNTY, INDIANA JAIL ON OR AFTER NOVEMBER 8, 2016, WHO WERE US CITIZENS, RESIDENTS OF INDIANA, WERE AT LEAST EIGHTEEN (18) YEARS OF AGE, WERE NOT SERVING A SENTENCE FOR A CONVICTION OF A FELONY CRIME, WHO HAD NOT PREVIOUSLY VOTED IN THE 2016 GENERAL ELECTION AND WHO WERE NEITHER PROVIDED AN ABSENTEE BALLOT NOR TRANSPORTATION TO A VOTING CENTER, AND WHO WERE REGISTERED TO VOTE OR HAVE BEEN DENIED THE OPPORTUNITY TO VOTE WHILE INCARCERATED IN THE ALLEN COUNTY JAIL. PLEASE READ THIS NOTICE CAREFULLY AS IT MAY EFFECT YOUR LEGAL RIGHTS.**

### **1. Description of the Case.**

Plaintiff Ian Barnhart was held in the Allen County Jail as a pretrial detainee on felony criminal charges from about November 4, 2016 to about November 26, 2016. Ian Barnhart alleges that on November 8, 2016 he was eligible to vote in the 2016 General Election but Defendant Sheriff David Gladieux, in his official capacity as Sheriff of Allen County prevented him from voting in the Allen County Jail. Mr. Barnhart further claims that he was denied access to in-person early voting, absentee ballots, or any other means of voting. Barnhart initiated this class action pursuant to Federal Rules of Civil Procedures 23(a) and (b) (3) on behalf of himself and all others similarly situated persons. The lawsuit was initiated by class representative Demetrius Buroff on or about March 27, 2017. Ian Barnhart replaced Mr. Buroff as class representative on or about November 13, 2017. A First Amended Complaint alleging Plaintiffs' allegations under 42 U.S.C. § 1983 (including violations of the Fourteenth Amendment right to vote and that the Sheriff acted pursuant to policies, acts, customs, and procedures, among other allegations), was filed on June 6, 2017. Plaintiffs filed Second Motion for Class Certification on March 7, 2018. After briefing, the court issued an order on or about May 17, 2018 issued an order certifying the class as follows:

All individuals held at the Allen County Jail on November 8, 2016, who on that date were U.S. Citizens, residents of Indiana, were at least eighteen (18) years of age, were not serving a sentence for a conviction of a felony crime, had not previously voted in the 2016 General Election, were provided neither an absentee ballot nor transportation to a voting center, and were registered to vote or had been denied the opportunity to vote while held in the Allen County Jail. Subsequent to that ruling (ordered May 17, 2018), the Court issued an order granting Defendant's Motion for Partial Summary Judgment dismissing without prejudice the claims of Class Members incarcerated in the Allen County Jail on or before October 31, 2016 and leaving intact the claims of the Class Members incarcerated in the Allen County Jail after that date.

Pursuant to these claims, the Class has asked for damages and attorney's fees for the following injuries: Deprivation of the fundamental right to vote under the Fourteenth

Amendment of the United States Constitution, the violation of equal protection and the right to due process of law, the value of the loss of the right to vote, the emotional distress and mental anguish, and all other damages available under 42 U.S.C. § 1983 and 1988 and the Fourteenth Amendment of the United States Constitution, including attorney's fees and costs, as well as costs, fees, and expert witness fees pursuant to 52 U.S.C. § 10310 (e), and all other just and proper relief (including a declaration that the Sheriff's conduct and the policies, customs, procedures and practices (or policies of omission and his failure to train his subordinates) be declared unconstitutional in the context of failing to allow the Plaintiff and the putative class members their right to vote.

You have been identified as a possible member of the Class Action. A "Class Action" is a suit in which a certain individual is named as the Class Representative, and he sues on behalf of the unnamed members of the Class. All individuals who chose to remain in the Class are bound by any judgment rendered in the Class Action, and this judgment could be favorable or unfavorable to the Class member.

Upon Order of the Court, the Court found all the pre-requisites of Federal Rule of Civil Procedure 23 pertaining to the maintenance of a case as a Class Action were met and certified this case as Class Action because: 1) The Plaintiffs were so numerous that trials of individual cases would be impractical; 2) There are questions of law in fact common to the Class members; 3) The claims of the Class Representatives are typical of the claims of other Plaintiffs; 4) The Class Representative will fairly and adequately protect the interest of the Class; 5) The issues common to all Class members predominate over issues that affect only individual plaintiffs; 6) The Class Action format is superior to other available methods of judicial resolution of this dispute; and 7) The Class is identifiable as Class membership can be readily be determined by reference to objective criteria.

## **2. Class Definition.**

The Court has certified at this time the following class: ALL INDIVIDUALS HELD AT THE ALLEN COUNTY JAIL ON NOVEMBER 8, 2016 WHO ON THAT DATE WERE U.S. CITIZENS, RESIDENTS OF INDIANA, WERE AT LEAST 18 YEARS OF AGE, WERE NOT SERVING A SENTENCE FOR A CONVICTION OF A FELONY CRIME, HAD NOT PREVIOUSLY VOTED IN THE 2016 GENERAL ELECTION, WERE PROVIDED NEITHER AN ABSENTEE BALLOT NOR TRANSPORTATION TO A VOTING CENTER, AND WHO WERE REGISTERED TO VOTE OR HAD BEEN DENIED THE OPPORTUNITY TO VOTE WHILE HELD IN THE ALLEN COUNTY JAIL. THE CLASS DOES NOT INCLUDE CLAIMS OF CLASS MEMBERS WHO WERE INCARCERATED IN THE ALLEN COUNTY JAIL ON OR BEFORE OCTOBER 31, 2016.

## **3. Opting Out.**

If you want to participate in the class action and you are within the class as defined in this notice, you do not need to take any action at this time. If you are a member of the class, the Sheriff of Allen County is legally prohibited from dealing with you individually or directly

concerning your claim.

On the other hand, if you do not want to participate in the class action, you must opt-out of the class action. If you opt-out of the class action, you are responsible for either settling your claim with the Sheriff of Allen County or bringing your own lawsuit against the Sheriff of Allen County in connection with you being denied the right to vote in the 2016 general election while at the Allen County Jail. If you opt-out, you will not be able to share in monetary damages, if any, that the Plaintiff may obtain in this litigation. You may wish to consult with an attorney before you make a decision to opt-out or to remain in this litigation.

Any class member receiving this notice may enter an appearance through an attorney if the member so desires.

If, after receiving this notice, any class member requests exclusion, then the Court will exclude that member from the class. In order to opt-out, you must e-mail, fax, or write a letter to both Christopher C. Myers, counsel for the Plaintiff, and J. Spencer Feighner or John O. Feighner, counsel for the Defendant at:

**Christopher C. Myers**

Christopher C. Myers & Associates  
809 South Calhoun Street, Suite 400  
Fort Wayne, Indiana 46802  
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Facsimile (260) 424-0712  
E-Mail: cmyers@myers-law.com  
Counsel for Plaintiff

**J. Spencer Feighner**

**John O. Feighner**  
Haller & Colvin  
444 East Main Street  
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E-Mail: jsf@hallercolvin.com  
Counsel for Defendant

**\*\*\* If you choose to opt-out, you must do so in writing before January 3, 2020.**

**4. Questions Regarding Your Legal Rights.**

If you have questions regarding your legal rights as a member of the Class Action, you may contact your own lawyer or Class Counsel, Christopher C. Myers, whose contact information is listed above.

The above notice is approved for publication on this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**5. Filling out the CLAIM FORM**

If you have decided to remain part of the class and you wish to claim damages, then you should fill out a copy of the following CLAIM FORM and return it to Christopher C. Myers & Associates at the address listed above:

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION**

IAN BARNHART (previously Buroff), )  
individually and on behalf of all others )  
similarly situated, )  
   )  
Plaintiff, )  
   )  
   )  
v.   )      CASE NO. 1:17-cv-00124-TLS  
   )  
DAVID GLADIEUX, )  
in his official capacity, )  
   )  
Defendant. )

**CLAIM FORM**

As a result of being denied the right to vote in the 2016 general election in the Allen County Jail by the Allen County Sheriff, I am claiming that I suffered the following damages and injuries:

1. Full Legal Name: \_\_\_\_\_
2. Date of Birth: \_\_\_\_\_
3. Current Address: \_\_\_\_\_
4. Social Security Number: \_\_\_\_\_
5. In addition to any general damages, or emotional damages or mental anguish damages related to the denial of your voting rights, do you claim to have sustained any loss wages or other special damages as a result of not voting in the 2016 general election while detained in the Allen County Jail: Yes \_\_\_\_\_ or No \_\_\_\_\_
6. If you answered yes to Question No. 5, please describe in particular the losses that you claim:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. If you answered yes to Question No. 5, please provide the name and address of any persons who can verify your losses:  
\_\_\_\_\_

- \_\_\_\_\_
- \_\_\_\_\_
8. Do you claim to have sustained any psychological, emotional or mental damages as a result of being denied your right to vote in the Allen County Jail: Yes \_\_\_\_\_ or No \_\_\_\_\_
9. If you are claiming that you have sustained any psychological, emotional or mental damages as a result of being denied your right to vote in the Allen County Jail, please describe the psychological, emotional or mental damages you sustained:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

10. If you answered yes to Question No. 8, please state whether you sought medical treatment for said psychological, emotional or mental damages providing the names, addresses and phone numbers of any person from whom you sought treatment and the dates of said treatment:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

11. If you answered yes to Question No. 8, please state whether you were prescribed medication for the treatment of those psychological, emotional or mental damages providing the name of the medical professional who prescribed them and the medicines prescribed:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

12. If you answered yes to Question No. 8, please state the total amount of medical expenses you intend to claim as a result of the treatment of the psychological, emotional or mental damages you sustained and the name of the medical professional who charged you:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

13. If you intend to claim any other special damages or injuries caused by being over-detained in the Allen County Jail please specify what those special damages or injuries are:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

I declare under the penalties of perjury that all of the information contained in this Claim Form is true and correct to the best of my knowledge. I have supplied all information that I currently possess that is responsive to the questions contained in the claim form, to the extent such information or documents are in my possession, custody or control.

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

A full-size copy of the claim form can be obtained by contacting the office of Christopher Myers & Associates. You must fill out this form and provide the requested information if you are claiming that you suffered any damages other than the denial of the right to vote (not being able to vote) while in the Allen County Jail. Return this form no later than \_\_\_\_\_, 2019.

To the extent the space provided in the Claim Form is not adequate, please attach additional sheets so that you may fully and completely answer the questions on the Claim Form. To the extent you possess documents that support your statements contained herein you should provide those as well.